

Introduced by Senator Alarcon

February 21, 2003

An act to amend Section 24343 of the Revenue and Taxation Code, relating to taxation, to take effect immediately, tax levy.

LEGISLATIVE COUNSEL'S DIGEST

SB 819, as introduced, Alarcon. Corporate income tax: deductions: excessive employee remuneration.

The Bank and Corporation Tax Law allows various deductions in computing the taxable income of a corporation that is subject to taxes imposed by that law, including a deduction for salaries and other compensation paid to the corporation's employees. Existing law generally provides that a publicly held corporation may not deduct, as an expense, compensation paid to a chief executive officer or a specified employee to the extent that the amount of that compensation exceeds \$1,000,000 in one taxable year. This limitation does not apply to "performance based compensation," as defined.

This bill would modify these provisions to provide that any corporation that is domiciled or engaged in business in California may not deduct compensation paid to an executive officer or an individual acting in that capacity, otherwise deductible under current law, if the amount of compensation exceeds the lesser of \$1,000,000 or the amount equal to 100 times the salary of the corporation's least paid employee. This bill would also provide for an exception from this prohibition for a corporation that pays its lowest paid employee, including a contract employee, at least double the state minimum wage.

This bill would make legislative findings and declarations as to the intent of these new limitations imposed on the deduction of



compensation paid to corporate executives, and as to the public purposes served by this bill.

This bill would result in a change in state taxes for the purpose of increasing state revenues within the meaning of Section 3 of Article XIII A of the California Constitution, and thus would require for passage the approval of $\frac{2}{3}$ of the membership of each house of the Legislature.

This bill would take effect immediately as a tax levy.

Vote: $\frac{2}{3}$. Appropriation: no. Fiscal committee: yes. State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. The Legislature hereby finds and declares the
2 following:

3 (a) Business is vital to California's social and economic
4 well-being.

5 (b) The state must ensure that corporations doing business in
6 California are responsible to their shareholders, employees, and
7 California citizens alike.

8 (c) In carrying out this responsibility, it is incumbent upon the
9 state to prevent corporate greed, which is unfair to both
10 shareholders and workers.

11 (d) Excessive corporate executive officer salaries are
12 symptomatic of corporate greed.

13 (e) Twenty years ago the salary of the average corporate
14 executive officer was 42 times that of a production worker.

15 (f) Now the salary of the average corporate executive officer is
16 almost 500 times the salary of the average worker.

17 SEC. 2. It is the intent of the Legislature that California should
18 reward those corporations that have maintained reasonable
19 executive salaries, including bonuses, perks, and stock options,
20 and those corporations that adjust their executive salaries to more
21 reasonable levels. It is also the intent of the Legislature that this act
22 foster an environment of corporate responsibility and
23 transparency in this state.

24 SEC. 3. Section 24343 of the Revenue and Taxation Code is
25 amended to read:



1 24343. (a) Section 162 of the Internal Revenue Code,
2 relating to trade or business expenses, shall apply, except as
3 otherwise provided.

4 (b) For purposes of applying Section 162 of the Internal
5 Revenue Code, any references to Section 170 of the Internal
6 Revenue Code shall be modified to refer to Sections 24357 to
7 24359.1, inclusive, of this part.

8 *(c) (1) Section 162(m)(1) of the Internal Revenue Code,*
9 *relating to certain excessive employee remuneration, is modified*
10 *as follows:*

11 *(A) By substituting the phrase “any corporation domiciled or*
12 *engaged in business in this state” in lieu of “any public held*
13 *corporation.”*

14 *(B) By substituting “Article 1 (commencing with Section*
15 *24341) of Chapter 7 of Part 11 of Division 1” in lieu of “this*
16 *chapter.”*

17 *(C) By substituting “the lesser of (i) one million dollars*
18 *(\$1,000,000) or (ii) the amount equal to one hundred times the*
19 *salary of the corporation’s least paid employee” in lieu of*
20 *“\$1,000,000.”*

21 *(2) Section 162(m)(2) of the Internal Revenue Code shall not*
22 *apply.*

23 *(3) (A) Subparagraph (A) of Section 162(m)(3) of the Internal*
24 *Revenue Code is modified by substituting “an executive officer of*
25 *the taxpayer or an individual acting in that capacity” in lieu of*
26 *“the chief executive officer of the taxpayer or an individual acting*
27 *in such a capacity, or.”*

28 *(B) Subparagraph (B) of Section 162(m)(3) of the Internal*
29 *Revenue Code shall not apply.*

30 *(4) (A) Subparagraph (C) of Section 162(m)(4) of the Internal*
31 *Revenue Code shall not apply.*

32 *(B) Subparagraph (D) of Section 162(m)(4) of the Internal*
33 *Revenue Code is modified by substituting “January 1, 2003” in*
34 *lieu of “February 13, 1993.”*

35 *(5) A corporation is exempt from the provisions of Section*
36 *162(m) of the Internal Revenue Code, as modified by this*
37 *subdivision, if it pays each of its employees, including contract*
38 *employees, at least double the state minimum wage.*

1 SEC. 4. This act provides for a tax levy within the meaning of
2 Article IV of the Constitution and shall go into immediate effect.

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